

**U.S. Environmental Protection Agency Region 10 Policy Regarding Interactions
With Alaska Tribal Governments under the State of Alaska NPDES Program**

General Policy

EPA Region 10 Office of Water and Watershed recognizes our trust responsibility to federally recognized Tribal governments in Alaska. EPA will carry out the work described below after approval of the State program consistent with our trust responsibilities to Tribal governments. In addition to the specific actions below, EPA's existing Government to Government Tribal consultation relationship relative to environmental issues will continue intact after approval of the Alaska NPDES program. EPA will continue to be available for Tribal consultation at the request of a Tribe during Alaska's implementation of the program.

It is a shared goal that the NPDES permits issued by Alaska be protective of the Tribal environment and natural resources, and the health and safety of Tribal members. However, when the State of Alaska is the NPDES permit authority, EPA, Tribal Governments, and all stakeholders must work within the existing State program framework as reflected in the Memorandum of Agreement between EPA and DEC and as described in DEC's "Public Participation in APDES Permitting Process" document.

Specific Actions

EPA Review of State Permits in Year 1: EPA Region 10 will review every Alaska NPDES permit that is issued during the first year after program approval for consistency with federal requirements and will send to any affected tribal government a copy of the permit and any comments provided by EPA to the State.

Forward State Workplan and Solicit Tribal Interest: When Alaska develops its annual or three year work plan which describes permits that they intend to issue in upcoming years, EPA will forward the plan to the Tribes in Alaska and solicit Tribal interest in specific permits. When a Tribe specifies interest in a specific permit, EPA will consider that interest when targeting permits for federal review by EPA after Year 1.

Send Permit and EPA Comments to the Tribe: When interest is expressed by a Tribe on a State-issued permit, EPA will notify the Tribe when EPA receives a draft permit from the state. EPA will also notify the Tribe of any comments developed by EPA and submitted to the State, and will provide a copy of the draft permit and EPA's comments to interested Tribes.

Tribal Permit Review: Tribes are encouraged to review permits that are of interest and provide comments to both EPA and the State. If the Tribe provides concerns/comments on a State permit action to EPA before the close of the specified comment period, EPA may convey those comments in EPA correspondence to the State.

EPA Objection: If EPA finds that an Alaska NPDES permit does not meet the requirements of the Clean Water Act, EPA will submit an “objection” to the state issued permit. (A State cannot issue a permit until the EPA objection is resolved). If a Tribe believes that a State permit is not consistent with the federal Clean Water Act following Tribal review of a state permit, the Tribe can provide that information to EPA as well as to the State. If EPA agrees with the Tribe that an Alaska NPDES permit does not meet CWA requirements, EPA will submit an “objection” to the State-issued permit. Reviews must be consistent with the time frames specified in the State program as reflected in the Memorandum of Agreement between EPA and DEC and DEC’s “Public Participation in APDES Permitting Process” document.

Coordination with ADEC: The State has committed to provide specific information to Tribal governments. EPA will provide to ADEC a current list and contact information of Federally Recognized Tribes in Alaska which the State can use for their correspondence with Tribal governments.

EPA will work with ADEC through APDES program reviews and our annual review with the State through the performance partnership agreement process to ensure that the process established in the Public Participation document is followed.

If a Tribal government needs more time to review an Alaska NPDES permit, the Tribe should notify the State as described in the Public Participation document. The Tribe should copy EPA on such request.

EPA Issued Permits: For permits where EPA has jurisdiction and issues the NPDES permit, or in cases where EPA takes over a state permit, EPA will consult with affected Tribes on our permit decision consistent with our existing permit program Tribal consultation policy.
